

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:)
Rando et al.) Group Art Unit: 2876
Serial No.: 09/745,302)
Filed: December 20, 2000)
For: SCANNER WITH COUPON)
VALIDATION)

RESPONSE TO OFFICE ACTION

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Sir:

Following is a response to the Office Action dated June 9,
2008.

REMARKS

I. Declaration for Reissue

The claims stand rejected only on the basis of a defective reissue declaration. This rejection is respectfully traversed for the reasons as set forth below.

A. Identifying at Least One Error

At paragraphs 1-2, the office action asserts that the declaration is defective because "it fails to identify at least one

error which is relied upon to support the reissue application" and "the oath of 12/20/00 does not state an error that is correctable by reissue. The error is stated as 'the claims in the patent included unnecessary limitations.' And at paragraph 3 "Any error in the claims must be identified by reference to the specific claim(s) and the specific claim language wherein lies the error."

Turning to the 12/20/00 declaration, the following specific errors were identified:

1. At page 3, paragraph 1, "it was determined that claims in the patent included unnecessary limitations." As to these unnecessary limitations, specific claim language is then identified at paragraph 2: "Claim 24 has been added, depending on Claim 23, wherein the first scan pattern comprises a plurality of intersecting scan lines and the second scan pattern comprises a single scan line." (Emphasis added).

2. At page 4, paragraph 4, "It was determined that there was additional material that had not been previously claimed in the 5,128,520 patent, the RE35,117, or the parent to the present application, specifically the method Claims 25-29, certain of these claims being directed generally to methods of operation of the optical scanners of Claims 20-23, for example the Claim 25 method versus the Claim 20 optical scanner." (Emphasis added). The declaration then set forth the specific method claims 25-29.

It is submitted that the above sections of the 12/20/00 declaration specifically identify at least two errors: (1) specific claim language as to Claim 24 and (2) specific claim language, namely method claims of Claims 25-29 as opposed to the optical scanner (apparatus) claims of the prior patent.

Thus it is submitted that the reissue declaration set forth at least one error with adequate sufficiency.

B. Signature of Joseph Rando Not Being Dated

According MPEP 1410, each of the inventors must sign the declaration. There is no specific language in MPEP 1410 requiring that the declaration must be dated. Moreover, it is noted that the inventor Joseph Rando is now deceased (as noted in the supplemental reissue declaration).

To provide additional facts surrounding the timing of Mr. Rando's signature, the undersigned attorney sent the declaration to Mr. Rando and Mr. Novak for signature by letter dated November 27, 2000 and subsequently received executed declaration from Mr. Rando and filed the declaration with the application papers on December 20, 2000.

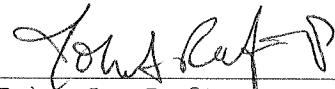
It is submitted that given these facts that the 12/20/00 reissue declaration should be accepted though the signature of Mr. Rando is undated.

II. Conclusion

Therefore it is submitted that the reissue declaration(s) meet the statutory requirement and all claims being indicated allowable, a Notice of Allowance is earnestly solicited.

Respectfully submitted,

Dated: September 4, 2008

By: 
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